

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

CARPENTERS HEALTH AND SECURITY
TRUST OF WESTERN WASHINGTON;
CARPENTERS RETIREMENT TRUST OF
WESTERN WASHINGTON; CARPENTERS-
EMPLOYERS VACATION TRUST OF
WESTERN WASHINGTON; CARPENTERS
OF WESTERN WASHINGTON INDIVIDUAL
ACCOUNT PENSION TRUST; and
CARPENTERS-EMPLOYERS
APPRENTICESHIP AND TRAINING TRUST
OF WESTERN WASHINGTON,

Plaintiffs,

v.

CASCADE STRUCTURES, LLC, a Washington
limited liability company; JEFFREY A.
PETERSEN, an individual; and ROBERT A.
GARCIA, an individual,

Defendants.

Case No. 3:18-cv-05865

COMPLAINT FOR MONETARY
DAMAGES

I. PARTIES

1.1 Plaintiff Carpenters Health and Security Trust of Western Washington
("Carpenters Health Trust") is a Taft-Hartley trust fund established to provide and maintain
hospital, medical, dental, vision, disability or death benefits and any other similar benefits,
or any combination thereof as the Trustees may determine in their discretion for the benefit

1 of the Employees and their beneficiaries. The Carpenters Health Trust maintains its
2 principal office in Seattle, King County, Washington.

3 1.2 Plaintiff Carpenters Retirement Trust of Western Washington (“Carpenters
4 Retirement Trust”) is a Taft-Hartley trust fund established to provide retirement and
5 associated death benefits for employees and their beneficiaries. The Carpenters Retirement
6 Trust maintains its principal office in Seattle, King County, Washington.

7 1.3 Plaintiff Carpenters-Employers Vacation Trust of Western Washington
8 (“Carpenters Vacation Trust”) is a Taft-Hartley trust fund established to provide vacation
9 benefits for employees. The Carpenters Vacation Trust maintains its principal office in
10 Seattle, King County, Washington.

11 1.4 Plaintiff Carpenters of Western Washington Individual Account Pension
12 Trust (“Carpenters 401(k) Trust”) is a Taft-Hartley trust fund established to provide
13 retirement and associated death benefits for participants and their beneficiaries. The
14 Carpenters 401(k) Trust maintains its principal office in Seattle, King County, Washington.

15 1.5 Plaintiff Carpenters-Employers Apprenticeship and Training Trust Fund of
16 Western Washington (“Carpenters Apprenticeship Trust”) is a Taft-Hartley trust fund
17 established to defray, in whole or in part, costs of apprenticeship or other training programs
18 for the education of apprentices and journeymen carpenters. The Carpenters Apprenticeship
19 Trust maintains its principal office in Seattle, King County, Washington.

20 1.6 The Plaintiffs are commonly referred to collectively as the Carpenters Trusts
21 of Western Washington (the “Carpenters Trusts”).
22
23

1.7 Defendant Cascade Structures, LLC (“Cascade Structures”) is a Washington limited liability company with its principal place of business in Ridgefield, Clark County, Washington.

1.8 Defendant Jeffrey A. Petersen is an individual believed to be residing in Ridgefield, Clark County, Washington. Mr. Petersen is one of two members of Cascade Structures and is the company’s registered agent.

1.9 Defendant Robert A. Garcia is an individual believed to be residing in Dundee, Yamhill County, Oregon. Mr. Garcia is one of two members of Cascade Structures.

II. JURISDICTION AND VENUE

2.1 This Court has exclusive jurisdiction over the First, Second, and Third Causes of Action pursuant to §502(e)(1) of the Employee Retirement Income Security Act of 1974 (“ERISA”), codified at 29 U.S.C. §1132(e)(1). This Court has supplemental jurisdiction over the Fourth Cause of Action pursuant to 28 U.S.C. §1367.

2.2 Venue in this Court is proper pursuant to §502(e)(2) ERISA, codified at 29 U.S.C. §1132(e)(2), and pursuant to agreement between the parties.

III. FACTS

3.1 On October 21, 2014, Jeffrey Petersen and Robert Garcia, identifying themselves as “Managers,” executed a Compliance Agreement on behalf of Cascade Structures, LLC with the Pacific Northwest Regional Council of Carpenters (the “Union”). The Compliance Agreement incorporates by reference the terms and conditions of the *2012 – 2015 Agreement between Associated General Contractors of Washington and Carpenters, Piledrivers, and Millwrights of the Pacific Northwest Regional Council of Carpenters*

1 *affiliate of the United Brotherhood of Carpenters and Joiners of America*, effective June 1,
 2 2012 (the “Master Labor Agreement”):

3 DESIGNATED LABOR AGREEMENT: The employer adopts and
 4 agrees to abide by the following Labor Agreement:

5 ☒ Western & Central WA Master Labor Agreement Rep by: AGC
 of Western WA Effective: 6/1/12 to 5/31/15.

6 3.2 The Master Labor Agreement contains an evergreen clause, which renews the
 7 agreement annually until a successor agreement is negotiated or the signatory employer
 8 gives notice of termination. The Master Labor Agreement in effect is the *2015 – 2018*
 9 *Agreement between Associated General Contractors of Washington and Carpenters,*
 10 *Piledrivers, and Millwrights of the Pacific Northwest Regional Council of Carpenters*
 11 *affiliate of the United Brotherhood of Carpenters and Joiners of America*, effective June 1,
 12 2015.

13 3.3 By signing the Compliance Agreement, Cascade Structures agreed to make
 14 fringe benefit contributions to the Carpenters Trusts and be bound by the terms and
 15 conditions of their respective trust agreements:

16 3. TRUST FUND OBLIGATIONS: The undersigned Employer
 17 hereby becomes a party to the applicable Trust Agreements for the
 18 trust funds or their successors identified in the designated Labor
 19 Agreement. The Employer agrees to be bound by the written
 20 provisions and procedures of said Trust Agreements, and any present
 or future amendments, and to any successor Trust Agreements.
 Employer accepts as its lawful representatives, the employer trustees
 who are now or who may hereafter serve on the Board of Trustees of
 the respective Trusts as determined by the Trust Agreements.

21 3.4 Prompt payment of wages and fringe benefit contributions is an essential
 22 term of the Compliance Agreement.
 23

3.5 The Carpenters Trusts are beneficiaries under the terms of the Compliance Agreement and the Master Labor Agreement.

3.6 By executing the Compliance Agreement, as discussed above, Cascade Structures agreed to the terms of the (i) Carpenters Health & Security Trust of Western Washington; (ii) Carpenters Retirement Trust of Western Washington; (iii) Carpenters-Employers Vacation Trust of Western Washington; (iv) Carpenters of Western Washington Individual Account Pension Trust; and (v) Carpenters-Employers Apprenticeship and Training Trust of Western Washington.

3.7 Cascade Structures' obligations under the Carpenters Health Trust are set forth in Article II, Sections 8 – 13, and Article IV, Section 17 of the Revised Trust Agreement of the Carpenters Health and Security Trust of Western Washington, dated January 1, 1998, and as amended. Under the Carpenters Health Trust, Cascade Structures agreed to, among other things:

- Submit its reports on or before the 15th day of the calendar month following the month in which the contributions are payable, even if the company had no employees for that period of time;
- Comply with a request to submit any information, data, report or other documents reasonably relevant to and suitable for purposes of administration of the trust, as requested by the trust funds;
- Payment of liquidated damages of twelve percent (12%) on all delinquent contributions;
- Payment of interest of not less than seven percent (7%), nor more than eighteen percent (18%); and
- Payment of the trust fund's attorney fees, costs of collection, and auditor's fees.

3.8 Cascade Structures' obligations under the Carpenters Retirement Trust are set forth in Article II, Sections 8 – 13, and Article IV, Section 17 of the Revised Trust Agreement of the Carpenters Retirement Trust of Western Washington, dated January 1, 1998, and as amended. Under the Carpenters Retirement Trust, Cascade Structures agreed to, among other things:

- Submit its reports on or before the due date specified in the trust agreement or as set by the trustees, even if the company had no employees for that period of time;
- Comply with a request to submit any information, data, report or other documents reasonably relevant to and suitable for purposes of administration of the trust, as requested by the trust funds;
- Payment of liquidated damages of twelve percent (12%) on all delinquent contributions;
- Payment of interest of not less than seven percent (7%), nor more than eighteen percent (18%); and
- Payment of the trust fund's attorney fees, costs of collection, and auditor's fees.

3.9 Cascade Structures' obligations under the Carpenters Vacation Trust are set forth in Article II, Sections 8 – 13, and Article IV, Section 17 of the Revised Trust Agreement of Carpenters-Employers Vacation Trust of Western Washington, dated January 1, 1998, and as amended. Under the Carpenters Vacation Trust, Cascade Structures agreed to, among other things:

- Submit its reports on or before the due date specified in the trust agreement or as set by the trustees, even if the company had no employees for that period of time;
- Comply with a request to submit any information, data, report or other documents reasonably relevant to and suitable for purposes of administration of the trust, as requested by the trust funds;

- Payment of liquidated damages of twelve percent (12%) on all delinquent contributions;
- Payment of interest of not less than seven percent (7%), nor more than eighteen percent (18%); and
- Payment of the trust fund's attorney fees, costs of collection, and auditor's fees.

3.10 Cascade Structures' obligations under the Carpenters 401(k) Trust are set forth in Article II, 8 – 13, and Article IV, Section 17 of the Revised Trust Agreement of Carpenters of Western Washington Individual Account Pension Trust, dated January 1, 1998, and as amended. Under the Carpenters 401(k) Trust, Cascade Structures agreed to, among other things:

- Submit its reports on or before the due date specified in the trust agreement or as set by the trustees, even if the company had no employees for that period of time;
- Comply with a request to submit any information, data, report or other documents reasonably relevant to and suitable for purposes of administration of the trust, as requested by the trust funds;
- Payment of liquidated damages of twelve percent (12%) on all delinquent contributions;
- Payment of interest of not less than seven percent (7%), nor more than eighteen percent (18%); and
- Payment of the trust fund's attorney fees, costs of collection, and auditor's fees.

3.11 Cascade Structures' obligations under the Carpenters Apprenticeship Trust are set forth in Article II, Sections 8 – 13, and Article IV, Section 17 of the Revised Trust Agreement of Carpenters-Employers Apprenticeship and Training Trust Fund of Western Washington, dated January 1, 1998, and as amended. Under the Carpenters Apprenticeship Trust, Cascade Structures agreed to, among other things:

- 1 ▪ Submit its reports on or before the due date specified in the trust
- 2 agreement or as set by the trustees, even if the company had no
- 3 employees for that period of time;
- 4 ▪ Comply with a request to submit any information, data, report or other
- 5 documents reasonably relevant to and suitable for purposes of
- 6 administration of the trust, as requested by the trust funds;
- 7 ▪ Payment of liquidated damages of twelve percent (12%) on all
- 8 delinquent contributions;
- 9 ▪ Payment of interest of not less than seven percent (7%), nor more than
- 10 eighteen percent (18%); and
- 11 ▪ Payment of the trust fund's attorney fees, costs of collection, and
- 12 auditor's fees.

13 3.12 Upon information and belief, following execution of the Compliance

14 Agreements, Cascade Structures used employees to perform work on each of the designated

15 projects subject to the Master Labor Agreement. Cascade Structures also began its monthly

16 reporting and payment of fringe benefit contributions to the Carpenters Trusts.

17 3.13 Cascade Structures submitted its monthly contributions reports to the

18 Carpenters Trusts. However, Cascade Structures did not provide full payment of its reported

19 fringe benefit contributions.

20 3.14 As of the date of this complaint, Cascade Structures owes the Carpenters

21 Trusts \$92,724.33 in fringe benefit contributions for the period June 2018 through

22 September 2018, plus liquidated damages and other ancillary charges including prejudgment

23 interest, attorney fees, and costs of collection.

IV. CAUSES OF ACTION

**First Cause of Action
(Breach of Labor Agreement/Trust Agreement)**

4.1 The Carpenters Trusts reallege each and every allegation contained in ¶¶3.1 – 3.14 above.

4.2 Cascade Structures' failure to properly report and pay fringe benefit contributions constitutes breaches of the terms of the Compliance Agreement and the Master Labor Agreement between the Union and Cascade Structures, to which the Carpenters Trusts are beneficiaries. Cascade Structures' failure to fully pay fringe benefit contributions it reported also constitutes breaches of the Trust Agreements, the terms of which Cascade Structures agreed to when it signed the Compliance Agreement.

4.3 As a result of Cascade Structures' breach, the Carpenters Trusts have been damaged in an amount to be proven at trial, but not less than \$92,724.33, plus liquidated damages and other ancillary charges including prejudgment interest, attorney fees, and costs of collection.

**Second Cause of Action
(Violation of ERISA)**

4.4 The Carpenters Trusts reallege each and every allegation contained in ¶¶3.1 – 3.14 above.

4.5 Cascade Structures' failure to report and pay fringe benefit contributions constitutes a violation of §503(a)(3), §515 ERISA, codified at 29 U.S.C. §1132(a)(3), §1145.

4.6 As a result of Cascade Structures' violation, the Carpenters Trusts have been damaged in an amount to be proven at trial, but not less than \$92,724.33, plus liquidated

1 damages and other ancillary charges including prejudgment interest, attorney fees, and costs
2 of collection.

3 **Third Cause of Action**
4 **(Breach of Fiduciary Duty)**

5 4.7 The Carpenters Trusts reallege each and every allegation contained in ¶¶3.1 –
6 3.14 above.

7 4.8 Defendants Petersen and Garcia are responsible for Cascade Structures’
8 reporting and payment of fringe benefit contributions to the Carpenters Trusts.

9 4.9 Defendants Petersen and Garcia, for purposes of ERISA, are fiduciaries of
10 trust fund assets, because they exerted control over employee deductions withheld for
11 payment to the Carpenters Trusts.

12 4.10 Defendants Petersen and Garcia have failed to turn over trust fund assets,
13 consisting of \$3,763.00 in employees’ vacation pay and \$5,405.50 in employees’ 401(k)
14 contributions to the Carpenters Trusts, despite demand.

15 4.11 Defendants Petersen and Garcia’s failure to remit trust fund assets is a breach
16 of fiduciary duty under ERISA, and has damaged the Carpenters Trusts in an amount to be
17 determined at trial, but not less than \$9,168.50.

18 **Fourth Cause of Action**
19 **(Conversion)**

20 4.12 The Carpenters Trusts reallege each and every allegation contained in ¶¶3.1 –
21 3.14 above.

22 4.13 Defendants Petersen and Garcia withheld dues from Cascade Structures’
23 employee paychecks pursuant to the terms of the Master Labor Agreement. However,

Cascade Structures did not remit them to the Carpenters Trusts' administration office with the company's monthly reports.

4.14 Defendants Petersen and Garcia's actions were performed for and benefitted Cascade Structures, interfered with the Carpenters Trusts' interest in the withheld dues, and gives rise to a cause of action for conversion against all three Defendants.

4.15 Defendants Cascade Structures, Petersen, and Garcia's failure to remit employee dues deductions to the Carpenters Trusts' administration office has damaged the Carpenters Trusts in an amount to be determined at trial, but not less than \$8,351.17.

V. REQUESTED RELIEF

The Plaintiff Carpenters Trusts respectfully request the Court grant the following:

- A. Judgment in favor of the Carpenters Trusts against Cascade Structures, in an amount to be determined at trial, but not less than \$92,724.33, representing past-due and delinquent fringe benefit contributions owed by defendant pursuant to the terms of the labor and trust agreements to which Cascade Structures is a party;
- B. Judgment in favor of the Carpenters Trusts against Cascade Structures, in an amount to be determined at trial, representing liquidated damages owed by defendant pursuant to the terms of the labor and trust agreements to which Cascade Structures is a party;
- C. Judgment in favor of the Carpenters Trusts against Cascade Structures, in an amount to be determined at trial, representing accrued prejudgment interest owed by defendant pursuant to the terms of the labor and trust agreements to which Cascade Structures is a party;
- D. Judgment against Jeffrey Petersen individually, for joint and several liability with Cascade Structures and Mr. Garcia for the \$3,763.00 in employees' vacation pay, \$5,405.50 in employees' 401(k) contributions, and \$8,351.17 in dues withheld from employee paychecks but not remitted to the Carpenters Trusts;
- E. Judgment against Robert Garcia individually, for joint and several liability with Cascade Structures and Mr. Petersen for the \$3,763.00 in employees' vacation pay, \$5,405.50 in employees' 401(k) contributions, and \$8,351.17 in

1 dues withheld from employee paychecks but not remitted to the Carpenters
2 Trusts;

3 F. An award of attorney fees of not less than \$5,000.00, plus costs of collection,
4 as authorized by the labor and trust agreements to which Cascade Structures
5 is a party, and as authorized under ERISA; and

6 G. Any other such relief under federal law or as is just and equitable.

7 Dated: October 25, 2018.

8 s/ Jeffrey G. Maxwell

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